

HOUSE BILL No. 1150

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-6.9.

Synopsis: Recovery of governmentally mandated utility costs. Allows an energy utility to recover through a retail rate adjustment mechanism governmentally mandated costs incurred in providing retail energy service. Provides that the costs may be recovered through a rate adjustment mechanism if the costs result in a cumulative increase in the utility's intrastate regulated total operating expenses or capital costs in an amount that is at least 2% of the utility's authorized net operating income.

Effective: January 1, 2005 (retroactive).

Lutz J

January 6, 2005, read first time and referred to Committee on Utilities and Energy.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1150

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-6.9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 6.9. (a) As used in this**
4 **section, "energy utility" has the meaning set forth in IC 8-1-2.5-2.**

5 **(b) As used in this section, "governmental action" means:**

6 **(1) a federal, state, or local statute, rule, regulation, or order;**

7 **or**

8 **(2) any adjudication, settlement, or consent decree in any**
9 **federal, state, or local court or administrative proceeding**
10 **interpreting or applying a federal, state, or local statute, rule,**
11 **regulation, or order.**

12 **(c) As used in this section, "governmentally mandated costs"**
13 **include:**

14 **(1) capital, operating, maintenance, depreciation, and tax**
15 **costs incurred by an energy utility after December 31, 2003,**
16 **to comply with:**

17 **(A) state or federal environmental compliance**



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requirements;

(B) state or federal requirements for the security, reliability, or safety of all or any part of a utility system; or

(C) the requirements of any regional transmission organization (as defined in 18 CFR 35.34) or utility industry reliability organization;

(2) costs of emission allowances purchased and used by an energy utility to cause its utility system to meet applicable state or federal requirements for clean air, including carrying costs;

(3) costs of decommissioning an electric generating facility resulting from applicable state or federal requirements for the decommissioning of the facility, including carrying costs; and

(4) costs of taxes, assessments, or similar fees directly or indirectly imposed on an energy utility by a governmental action.

(d) As used in this section, "governmentally mandated event" means compliance by an energy utility with a governmental action that:

(1) by itself, or in combination with another governmental action, has a direct and material impact on the energy utility's operating, maintenance, depreciation, or tax expenses or capital costs; and

(2) is in effect, applicable to an energy utility, and not stayed pending judicial appeal.

(e) As used in this section, "material impact" means a cumulative increase in an energy utility's intrastate regulated total operating expenses or capital costs in an amount that is at least two percent (2%) of the energy utility's authorized net operating income.

(f) As used in this section, "retail energy service" has the meaning set forth in IC 8-1-2.5-3, regardless of whether the service is provided under IC 8-1-2.5 or another provision of this article.

(g) As used in this section, "retail rate adjustment mechanism" means a:

(1) tracking provision;

(2) surcharge provision; or

(3) similar mechanism or provision;

approved by the commission for the sole purpose of periodically adjusting an energy utility's rates and charges for retail energy service to allow for the recovery of governmentally mandated costs.

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(h) An energy utility may petition the commission for approval of a retail rate adjustment mechanism under this section. If the commission determines that the governmentally mandated costs are:

- (1) reasonable; and
 - (2) the direct result of a governmentally mandated event;
- the commission shall approve the petition and allow the energy utility to recover the costs through a retail rate adjustment mechanism.

(i) Recovery of governmentally mandated costs described in this section may be recovered by an energy utility through:

- (1) a rate adjustment mechanism under this section; or
- (2) the inclusion of the costs in the energy utility's basic rates and charges.

However, any governmentally mandated costs recovered in the energy utility's basic rates and charges may not also be recovered through a retail rate adjustment mechanism under this section.

(j) A retail rate adjustment mechanism proposed by an energy utility under this section may be based on actual or forecasted data. If forecasted data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct any variance between the energy utility's forecasted costs and the energy utility's actual costs in providing retail energy service. An energy utility may not petition the commission for a change in a retail rate adjustment mechanism more than once during any twelve (12) month period.

(k) A retail rate adjustment resulting from a retail rate adjustment mechanism approved by the commission under this section:

- (1) is in addition to any other rate adjustment an energy utility may be entitled to under this title; and
- (2) is not considered a general increase in basic rates and charges under section 42(a) of this chapter or under IC 8-1-13-30(a).

(l) The commission shall make any adjustments to an energy utility's expense tests and return tests during the twelve (12) month test period considered by the commission in an application under section 42(d) or 42(g) of this chapter or under IC 8-1-13-30(d), whichever applies, necessary to permit the energy utility to retain the revenues resulting from a retail rate adjustment mechanism approved by the commission under this section.

SECTION 2. An emergency is declared for this act.

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